



CITY OF

PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF FEBRUARY, 1994 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales and Kafoury, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Harry Auerbach, Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 171, 177, 181 and 190 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 172** Accept bid of Cummins Northwest for \$25,945 for truck filters only; and Interstate Auto Parts for \$20,747 for auto and truck filters for the annual supply of automobile and truck filters for various bureaus (Purchasing Report - Bid 67-A)

Disposition: Accepted; prepare contract.

- 173** Accept bid of Eastman Kodak Company for furnishing one Kodak 1575 digital copier or equivalent for \$56,100 (Purchasing Report - Bid 91)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- *174** Pay claim of Katrina Donaldson (Ordinance)

Disposition: Ordinance No. 167333. (Y-4)

- *175** Apply for a grant of \$140,946 from the Oregon Department of Transportation, Traffic Safety Division, for DUII enforcement (Ordinance)

Disposition: Ordinance No. 167334. (Y-4)

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- *176** Establish two Administrative Specialist positions, two Crime Prevention Representative positions and one Community Relations Assistant position in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 167335. (Y-4)

Commissioner Earl Blumenauer

- 178** Set hearing date, 9:30 a.m., Wednesday, March 9, 1994, to vacate a portion of SW Whitaker Street (Report; Petition C-9848)

Disposition: Adopted. (Y-4)

- *179** Call for bids for Steel Bridge East LRT ramp-bearing repair, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 167336. (Y-4)

- *180** Authorize appointment of an employee at a pay rate above entry (Ordinance)

Disposition: Ordinance No. 167337. (Y-4)

Commissioner Charlie Hales

- *182** Grant revocable permit to Portland Police Historical Association to construct a memorial in a portion of Governor Tom McCall Waterfront Park (Ordinance)

Disposition: Ordinance No. 167338. (Y-4)

- *183** Authorize acceptance of a Recreational Trail Easement and a Conservation easement through Parcel 1, Partition Plat 1992-80, located in the NW 1/4 Section 24, T1N, R2E, WM, Multnomah Co. on the Columbia South Shore Slough area by T and W Development Co. (Ordinance)

Disposition: Ordinance No. 167339. (Y-4)

- *184** Accept a \$47,000 grant from the Federal Emergency Management Agency (Ordinance)

Disposition: Ordinance No. 167340. (Y-4)

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- *185** Accept a 12 month grant from the Administration on Aging in the amount of \$90,954 to fund Subsidized Housing Ombudsman Demonstration Projects (Ordinance)

Disposition: Ordinance No. 167341. (Y-4)

Commissioner Gretchen Kafoury

- 186** Accept remodel work on the new North Precinct facility as complete and pay Gerry Hobson General Contracting, Inc. balance of contract and retainage in the amount of \$3,640 (Report)

Disposition: Accepted.

- *187** Amend agreement with Imani Women's Support Project, Inc. to increase the amount of compensation by \$5,000 and provide for payment (Ordinance; amend Agreement No. 28757)

Disposition: Ordinance No. 167342. (Y-4)

- *188** Authorize the Purchasing Agent to sign a Purchase Order as a contract with Eastman Kodak to furnish a Kodak 1575 digital copier for the Bureau of General Services at the estimated amount of \$56,100 (Ordinance)

Disposition: Ordinance No. 167343. (Y-4)

- *189** Authorize the Purchasing Agent to sign a Purchase Order as a contract with Eoff Electric to furnish electronic ballasts and related supplies for the Bureau of General Services at the estimated amount of \$131,383 (Ordinance)

Disposition: Ordinance No. 167344. (Y-4)

- *191** Amend Agreement between the Association for Portland Progress, the City of Portland and Portland Downtown Service, Inc. to provide for additional security services for the Transit Mall Extension project (Ordinance; amend Contract No. 28254)

Disposition: Ordinance No. 167345. (Y-4)

- *192** Authorize contracts with Multnomah County Legal Aid Service and the Fair Housing Council of Oregon for Fair Housing Enforcement Program; authorize expanded testing services by the Fair Housing Council of Oregon under existing Agreement for Civil Rights Enforcement (Ordinance)

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Disposition: Ordinance No. 167346. (Y-4)

Commissioner Mike Lindberg

- 193** Accept completion of the Sullivan Pump Station revisions and modifications project, approve Change Order No. 23 and make final payment to Oregon Electric Construction, Inc. (Report)

Disposition: Accepted.

- *194** Amend contract with Tri-County Metropolitan Transportation District of Oregon for the Metropolitan Arts Commission to administer a Westside MAX public art program (Ordinance; amend Contract No. 50224)

Disposition: Ordinance No. 167347. (Y-4)

- *195** Consent to the transfer of Dick Oakley fifty percent ownership of the Baldwin Sanitary Service, Inc. solid waste and recycling franchise to Marvin R. Parnell, allowing him to become the sole owner (Ordinance)

Disposition: Ordinance No. 167348. (Y-4)

- *196** Authorize a contract for the Mid County Test Pits project and provide for payment (Ordinance)

Disposition: Ordinance No. 167349. (Y-4)

- *197** Authorize continuance of negotiations for the purchase of two permanent sewer easements required for construction of the Stephens Slough storm sewer relocation project, authorize the City Attorney to commence condemnation proceedings and to obtain early possession (Ordinance)

Disposition: Ordinance No. 167350. (Y-4)

- *198** Authorize a contract and provide for payment for the Bayard Basin CSO sump project, Unit 4 (Ordinance)

Disposition: Ordinance No. 167351. (Y-4)

City Auditor Barbara Clark

- *199** Reduce sidewalk assessments (Ordinance; amend Ordinance Nos. 163918 and 164664)

Disposition: Ordinance No. 167352. (Y-4)

REGULAR AGENDA

- S-171** Accept bid of First Cascade for tenant improvements at Metro Headquarters for \$51,222 (Purchasing Report - Informal Bid over limit)

Discussion: Cay Kershner, Clerk of the Council, noted that a new report had been submitted, indicating that the space is to be used by the Portland Police Bureau, not the Bureau of Environmental Services.

Commissioner Blumenauer moved the substitute. Commissioner Hales seconded and the motion was so ordered. (Y-4)

Disposition: Accepted; prepare contract. (Y-4)

- *177** Amend City Code Chapter 14.28 to add 14.28.080, prohibiting providing premises for the consumption of alcohol by minors (Ordinance; amend Chapter 14.28)

Discussion: Dave Butzer, Commander of East Precinct, and Sergeant Brett Smith explained the purpose of this ordinance.

Sergeant Smith said it has been difficult to control minor-in-possession parties because of the inability to identify the persons actually responsible for providing the alcohol. This ordinance would give the Police more authority to break up a party attended by juveniles by identifying the responsible party who owns or controls the house. It targets the location and gives the Police a better tool by broadening the definition "making available any alcoholic liquor" to include making available the furnishing of a residence where alcohol is served. This will deter minor possession problems and cut down on the number of alcohol-related auto accidents. He said it will also help officers combat minor possession parties and have a positive impact on neighborhoods. There is no inconsistency between this ordinance and the State liquor laws.

Commissioner Blumenauer asked about the penalties.

Sergeant Smith said the penalties would fit under City Code Title 14 relating to juvenile offenses.

Commissioner Kafoury asked if the City was enforcing those penalties.

Commander Butzer said the penalties specifically relate to minors and people who contribute to their delinquency. The penalty is a maximum fine of \$500 and six months in jail.

Commissioner Hales asked who made the determination as to the amount of the penalty.

Commander Butzer said it is made by the District Court.

Commissioner Blumenauer said this is very useful but needs to be monitored to see if there is a pattern of repeated offenses and treat them as chronic nuisances that can be approached from the civil rather than the criminal side.

Commander Butzer asked when Council would like a report back.

Council agreed on six months. Mayor Katz asked for a map indicating the geographic area as well.

Disposition: Ordinance No. 167353. (Y-4)

- 181** Approve the Bureau of Fire, Rescue and Emergency Services Cost of Service Study Report (Resolution)

Discussion: Commissioner Hales said this is a response to a budget note imposed by Council last year during the budget process.

Jim Schwager, Fire Protection Engineer with the Bureau of Fire, Rescue and Emergency Services, said this analysis has been reviewed by the Office of Finance and Administration and modified to include their recommendations. He said three ordinances will be on the agenda next week increasing fees for plan review, sprinklers and automatic fire alarms; the cost of service analysis validates these increases. If these fees are approved, those three programs will be at 100 per cent cost recovery, as directed by Council.

Mayor Katz asked if this was built into the budget.

Mr. Schwager said yes, an additional \$250,000 of revenue was built in the budget based on anticipated increases.

Mayor Katz noted that the Bureau will not reach that.

Mr. Schwager said there will be a shortfall of about \$163,000 that the Bureau will absorb elsewhere.

Commissioner Kafoury asked why they did this internally rather than selecting a neutral party outside the bureau to do the study.

Barbara Cotrell, Bureau of Fire, Rescue and Emergency Services, said there were no funds identified for going outside the bureau and the detailed information needed required internal knowledge of the different programs and how they function. They did not consider taking it outside.

Commissioner Kafoury asked what the current recovery is.

Mr. Schwager said it is about 50 per cent for automatic sprinklers and Fire Code enforcement and 65 per cent for fire alarms.

Commissioner Kafoury asked how that related to neighboring jurisdictions.

Mr. Schwager said generally the fire services have not been aggressive about generating revenue. Vancouver and Clark County are currently in the process of initiating a 100 per cent cost recovery program. He reviewed fees in a number of other jurisdictions, noting that these increases would place the City higher than the others.

Commissioner Kafoury said her biggest concern is how this is coordinated with the Bureau of Buildings. She said she is still not comfortable that everything has been done to get the bureaus to work together or with what the impacts are on other charges.

Mr. Schwager said they are reviewing the Fire Code enforcement fees with the Bureau of Buildings to make sure there is no duplication of services. He said once this process is complete, they intend to resolve that issue with the Bureau of Buildings. He said it would be a policy direction to staff as to what areas they would and would not review. The areas where duplication may be involved include retail and apartment remodeling.

Commissioner Kafoury said for a long time there have been conversations about merging these functions and she still believes there is overlap in some of the inspections. She said perhaps she and Commissioner Hales need to be involved as the departments have been working on this for about three years and do not seem to be getting anywhere.

Commissioner Hales said what this study tells is how the Fire Bureau is doing with respect to the current structure, with separated plan review and fire and safety review. He said the study shows that the Bureau is not currently doing very well in reaching the goal of 100 per cent cost recovery.

Commissioner Kafoury said she does not know why some bureaus are treated differently than others or why it is okay for the Fire Bureau to have 100 per cent cost recovery but not okay for the Planning Bureau to have only 70 per cent. She said it also seems strange to adjust rates in mid-year, even though a fee-increase study was directed in the budget.

Mayor Katz said the current budget was based on those rates and because

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the Bureau did not get the report done earlier it has to absorb the difference.

Commissioner Blumenauer said that is exactly what has happened in the Planning Bureau where service that neighborhoods want is not being given.

Mayor Katz said other Planning issues were identified that will be part of the budget discussions to be held this year.

Commissioner Hales said if he were to do this over again he would synchronize the cost of service studies for both the Fire and Planning Bureaus. However, the research has now been done. He noted that the Planning Bureau went outside the City to do the cost of service study because, unlike the Fire Bureau, there was no internal fiscal position there until very recently.

Commissioner Kafoury said she has no problem accepting the report but does not think it is fair to have different treatment for different bureaus.

Commissioner Blumenauer said some people feel there are different issues with the Planning Bureau but since these are both development fees, he believes this is a distinction without a difference to the people who pay the bills.

Mayor Katz said this is not the appropriate place to raise this issue. She said she understands the issue between raising the fees and being competitive with other jurisdictions as well as customer service. She said there is a difference between the bureaus and these differences were presented at the last budget period. Hopefully, this issue will be resolved at the next budget hearings.

Commissioner Blumenauer said it is important not to slide over these issues and put them off until later. He said he had hoped the issue of differential treatment of bureaus would have come up during the 100 hours Council has already spent on budget discussions but it has not.

Mayor Katz said there will be an opportunity during the budget process to deal with those issues as it is clearly the goal to get cost recovery. However, in some bureaus other issues are involved which need to be resolved, hopefully at budget time.

Commissioner Blumenauer said it is a Catch 22 since the bureau budgets have now been submitted. The issue is whether there should be 100 per cent cost recovery or 70 per cent recovery, which is the direction Council gave the Planning Bureau, or 40 per cent, which is the actual recovery rate in Planning.

Ms. Cotrell noted that the FY 94-95 budget proposal includes the projected figures based on these increases.

Commissioner Hales said it anticipates maintenance of the increase. He said it is fair for Council to reevaluate the theory behind the cost recovery percentages and see if they should be applied bureauwide. He said State-mandated Fire and Building Codes involving development review ought to be at 100 per cent since the City did not decide to impose it on the permit process. In the case of Planning, the prior Council made a decision that both the community and the applicant gain a certain amount of benefit and that is why the goal was set at 70 per cent, even though Planning is getting a lot less than that now. He said those percentages should be revisited to see if this is a correct philosophical basis upon which to build the fee structure. In this case, however, Council told the Fire Bureau to set the goal at 100 per cent and to report back on what the fee should be in order to get that percentage.

Disposition: Resolution No. 35242. (Y-4)

- S-*190** Authorize contract with First Cascade for tenant improvements at the Metro Headquarters Building for the Bureau of General Services for approximately \$51,222 (Ordinance)

Discussion: The Clerk noted that a Substitute had been filed to correct the name of the bureau involved from Environmental Services to the Police.

The Substitute was moved, seconded and adopted. (Y-4)

Disposition: Substitute Ordinance No. 167354. (Y-4)

Commissioner Earl Blumenauer

- 200** Consider vacating a portion of NW 24th Place north of NW Thurman Street at the request of David W. Hopkins (Hearing; Report; C-9851)

Disposition: Approved. City Engineer prepare ordinance. (Y-4)

- *201** Amend agreement for management services on the Portland Transit Mall Extension project with Portland Development Commission and Tri-Met to provide for additional security services and improve the southwest corner of SW 5th Ave. and W Burnside St. (Ordinance; amend Agreement No. 24969)

Disposition: Ordinance No. 167355. (Y-4)

Commissioner Charlie Hales

- *202** Amend Title 3 of the City Code relating to property tax exemption for low income housing held by charitable non-profit organizations (Ordinance; amend Chapter 3.101)

Discussion: Bob Clay, Planning Bureau, said this ordinance makes the Code consistent with recently-passed State statutes regarding property tax exemptions for non-profit organizations that provide rental housing to very low income households. It makes four changes: 1) extends the sunset clause to July 1, 2004; 2) changes the application deadline from September 1 to March 1; 3) raises the income limit from 50 per cent to 60 per cent of median income; and 4) allows applications to be filed between July 1 and September 1 for organizations expected to acquire properties. He said there are currently 15 non-profit charitable organizations participating in the program and they must show that the property tax exemptions result in either a lowering of rents or expansion of services to tenants.

Mayor Katz asked how this would be incorporated within the overall City policy on property tax exemptions.

Mr. Clay said Council directed, as a result of River Place tax abatement, that the Office of Finance and Administration, the Portland Development Commission (PDC) and Planning study the impact of tax abatement programs citywide to make sure no undue harm was done to the fiscal status of the City. This program had not been anticipated to be within the scope of that study but OFA has recommended that it be folded in. He said he had no problem with that but there are several other property tax exemption programs that may need to be included also.

Commissioner Kafoury said this one is slightly different because it does not have the same direct impact on bureau budgets that some of the others do but there is no reason not to look at all of them.

Mayor Katz said this should be looked at because property tax exemptions are an expenditure and also impact other jurisdictions because of the agreement the City has with them. She said she understands, however, that everyone is aware of this and it is not an issue.

Commissioner Kafoury said when these property tax exemptions were done originally they worked with the other jurisdictions but it is a good idea to work with them on this issue now because of the impact on their budgets.

Commissioner Blumenauer said there is also the cumulative effect of such programs. He asked if the time period is limited.

Mr. Clay said they do an annual review every year consistent with State law.

Commissioner Blumenauer asked if they are entitled to it if their circumstances change.

Mr. Clay said they must make an application every year which the Bureau reviews annually for eligibility.

Commissioner Blumenauer asked if renewal is automatic as long as they comply.

Mr. Clay said yes, they treat it as automatic.

Martha McClennan, Portland Development Commission, said the non-profit organizations conduct a tenant survey every year which forms the content of their application. They get income certifications from each household occupying a unit and grant abatements on an annual basis.

Mayor Katz asked if there had ever been an outside review of how well these organizations are complying.

Ms. McClennan said most of these projects are financed with federal funds through PDC. The source of the financing would require monitoring and a field audit is required annually by PDC, as the financing agency for properties of over 40 units.

Disposition: Ordinance No. 167356. (Y-4)

- *203** Authorize two grant applications to Oregon Department of Land Conservation and Development for technical assistance to improve the comprehensive plan and land use regulations (Ordinance)

Disposition: Ordinance No. 167357. (Y-4)

Commissioner Mike Lindberg

- *204** Contract with Brown and Caldwell for professional engineering services to support the combined sewer overflow program and provide for payment (Ordinance)

Disposition: Ordinance No. 167358. (Y-4)

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City Auditor Barbara Clark

- 205** Assess property for sewer system development charges through December, 1993 (Second Reading Agenda 163)

Disposition: Ordinance No. 167359. (Y-4)

- 206** Assess property for large lot deferral contracts through December, 1993 (Second Reading Agenda 164)

Disposition: Ordinance No. 167360. (Y-4)

At 10:16 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF FEBRUARY, 1994 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales and Kafoury, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Kathryn Imperati, Senior Deputy City Attorney and Adrienne Brockman, Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

REGULAR AGENDA

Commissioner Charlie Hales

- 208** Tentatively grant appeal of Eliot Neighborhood Association against Hearings Officer's decision and deny the application of Roger Anthony Gallo for a conditional use to establish a community corrections center at 843 N. Knott (Findings; 93-00593 CU; Previous Agenda 167)

Disposition: Findings Adopted. (Y-4)

- 209** Appeal of Roy L. Orem Trust against Hearings Officer's decision to approve application of Tri-Met for a conditional use, design review and adjustments to develop commercial parking lots near the alignment of the Westside Light Rail line (Hearing; rescheduled to March 9, 1994 at 2:00 pm.; 93-00665 CU DZ AD)

Disposition: Continued to March 9, 1994 at 2:00 p.m.

- 210** Tentatively deny appeal of Block 216 Partnership against Hearings Officer's decision to deny application to demolish an existing building and construct a surface parking lot at 901-917 SW Alder Street (Findings; 93-00064 CU DZ; Previous Agenda 94)

Discussion: Cay Kershner, Clerk of the Council, said the City Attorney's office had requested additional time to review the findings.

Disposition: Continued to February 23, 1994 at 2:00 p.m.

- S-211** Tentatively grant appeal of the Melvin Mark Properties against the Landmarks Commission's decision to give landmark designation to the Governor Building located at 408 SW Second Avenue (Findings; 93-00709 DM; Previous Agenda 95)

Disposition: Substitute findings adopted.

- 207** **TIME CERTAIN: 2:00 PM** - Liquor license application for C & M Restaurant, Inc., dba The Gold Mine, 3016 SE 82nd Ave., Dispenser Class A liquor license (renewal); unfavorable recommendation (Report introduced by Commissioner Kafoury)

Discussion: John Werneken, License Bureau, said the staff believes there is an extensive record of disturbing conduct at this restaurant, adding that the applicant, Elidio Martini, participated in numerous meetings with neighbors and made a number of commitments to reduce these disturbances. He has kept most of those commitments; however, the restaurant has been shown to attract patrons prone to disturbing or illegal acts and any changes since the compliance plans have been put into effect have been for the worse. Mr. Martini has been unable to prevent or control serious problems at the Gold Mine despite continuous efforts by enforcement agencies and Mr. Martini himself since at least the fall of 1992. The Bureau recommends an unfavorable endorsement.

Officer Larry Sievert, Police Liquor License Investigator, detailed continuing problems associated with this outlet, including noise, public urination, drug dealing and assaults. He also noted lengthy efforts by Mr. Martini to work with neighbors and the OLCC to control patron behavior. He cited numerous incidents to demonstrate that Mr. Martini cannot control what happens on the premises.

Janine Blatt, Attorney for the Gold Mine Restaurant, said Mr. Martini has worked hard to make this establishment a place the neighborhood can be proud of and has done everything required by the good neighborhood agreement.

Elidio Martini, applicant, said he has been mistreated by the Police, arguing that he does his job honestly. He described efforts to work with the neighborhood, noting that he spends \$2,000 a month on security and has been successful in ridding the area of prostitutes and drug dealers. He presented plans for remodeling the tavern to increase security.

People testifying in favor of the applicant included:

Edna Evans, 6524 SE 106th, 97266,
Tam Zachary, 7301 SE Powell Blvd., #33

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R. Bangoraron, 8434 SE Clay, 97216
Ralph Blair, 12665 SW 3rd, Beaverton, 97005
Darby Newcomb, 6107 SE 53rd
Sam Watt, West Coast Security, provider of security at the Gold Mine
Argenia Lichtenstein, 3220 SE 85th
Felix Brown, 3220 SE 85th
Charles Williams, patron of the Gold Mine

Those testifying in support of Mr. Martini argued that the situation at the Gold Mine has greatly improved since he took over this tavern and that they feel safe here because of the good security. They contended that he should not be held responsible for all the crime in the area. Several said the increase in incidents reported to Police is due to the aggressive security measures that have been taken.

Pauline Wann, 8304 SE Brooklyn, described the negative impacts of the establishment on her neighborhood, adding that children and neighbors do not need to be subjected to these incidents. She said enough is enough and these kinds of activities have to stop.

Loretta Hollister, representing residents in the duplexes behind the Gold Mine, said many of the duplex occupants were afraid of retribution if they testified. She said current tenants tracked and logged all the incidents in the Police report while future tenants are warned of the noise coming from the Gold Mine and the adjacent Unicorn Motel. She said while the owners have cleaned up the area, they have not cleaned up their clientele.

Commissioner Blumenauer, noting that in 1990 the restaurant was originally given approval by City bureaus with the condition that Mr. Martini not be involved with its management, asked why he is apparently now in charge.

Ms. Blatt said the license was originally given to his sons, based on some problems with topless bars which were totally different from this establishment. However, in 1991 the OLCC issued the license to Mr. Martini and he is the licensee of record.

Commissioner Blumenauer said he has heard Mr. Martini make these same representations, claiming that all the problems were someone else's, before Council in past years about several nightmarish establishments. He has a history with this Council of not keeping commitments to the neighborhood or Council. He suggested that Mr. Martini manage an establishment outside the City and one that does not involve alcohol.

Commissioner Hales said this really boils down to a policy statement by the City that when a license is approved, it is a requirement, not an option, to be a good neighbor. There is no choice for Council in this case.

Mayor Katz said a liquor license is a privilege, not a right, granted by the State and after reviewing a long record filled with broken promises she has to vote for the unfavorable recommendation.

Disposition: Unfavorably recommended. (Y-4)

Commissioner Gretchen Kafoury

- 212** Liquor license application for Thu Minh T Milford, dba Stark Street Quick Stop, 2816 SE Stark St., package store liquor license (renewal); favorable recommendation (Report)

Discussion: John Werneken, License Bureau, said although the Bureau is concerned about the problems complained about by neighbors, the License and Police Bureaus could find no basis to conclude that serious or persistent problems were occurring at this location.

Rebecca A. Gardella, 526 SE 28th, said having no buffer zone between this business and her home makes this an impossible living situation without the cooperation of the management. She said she has lived here for over 20 years without having problems like those occurring now.

Walter Milford, owner of the Stark Street Quick Stop, said this store is a convenience for the many area residents who do not have cars. He said Ms. Gardella seems to be the only one complaining about this establishment.

Patrick Gardella, 526 SE 28th, said the good neighbor policy in this neighborhood is unenforceable by the OLCC or the Bureau of Licenses. He said he observed drinking on the establishment grounds and on his own driveway, adding that there are two other convenience stores nearby and no need for another.

Mayor Katz asked Mr. Werneken if the neighborhood associations had taken a stand on this.

Mr. Werneken said the Sunnyside Neighborhood Association is well aware of the hearing but has chosen not to comment.

Disposition: Favorably recommended. (Y-4)

- 213** Liquor license application for Vincent (Todd) Lissner & Todd R. Lawrence, dba Vincent's Gourmet Pizza, 1935 SE Hawthorne Blvd., restaurant and package store liquor license (new outlet); favorable recommendation (Previous Agenda 169)

Discussion: Mr. Werneken said they believe this establishment will not be a problem and, for that reason, are forwarding a favorable recommendation.

Disposition: Favorably recommended. (Y-4)

- 214** Liquor license application for Sports Action Inn, Inc., dba Sports Action Inn, 7380 SW Garden Home Rd., Dispenser Class A liquor license (new outlet); favorable recommendation (Previous Agenda 170)

Discussion: John Werneken, License Bureau, said this has generated great interest and concern on both sides. Staff has spent quite a bit of time meeting with neighbors and reviewing materials provided both by the applicant and opposition. The Police Bureau concluded there are no reasons, based on their concerns, why this license should not be issued. The License Bureau believes the neighborhood has made a pretty good case that there are serious concerns about traffic congestion and safety but believes these concerns do not necessarily support an endorsement other than favorable. However, the Bureau recommends that a favorable endorsement be conditioned upon the applicant's carrying out a good faith effort to work with neighbors to address the parking and transportation impacts. If this were a new or remodeled facility, current Code standards about parking and access would apply but, because it is not, the issues that have been raised are not resolved.

Michael Mendelson, attorney for the applicant, noting the emotional nature of the issues raised, said this is an existing facility, previously an Elks Club and is in the commercial area of Garden Home. He said this facility will not be detrimental to the neighborhood and the owner has previously owned and managed dozens of facilities without a single OLCC violation. There are four other outlets in the near vicinity. He said this is an asset to the community, providing an upstairs banquet area and an opportunity to watch sports events as well as sit-down meal service. Regarding parking, he noted an agreement with Marv Ousman agreeing to the use of his parking spaces by Sports Action Inn patrons. He said a lot of false information has been circulated about this operation, including the assertion that there would be nude dancing and children would be allowed access. He said the applicant, Matt Schliebel, is willing to work with the community to be a good neighbor and this establishment will not be a major change from what has been there for many years.

Matt Schliebel, applicant, said he started his first business in 1946 and has never had one ticket against him.

Alice Ford, State representative, said this facility is not compatible with a family-oriented neighborhood. She said this is not a Garden Home

business district, it is a Garden Home intersection that is less than a block wide in any direction. In addition, the upstairs facility is inaccessible to the disabled.

Nathalie Darcy, 9355 SW Brooks Bend Lane, said the parking is inadequate and the applicant is using public right-of-way for patron parking.

Bob Bothman, 7365 SW 87th, said they are concerned with having a business open until 2:30 a.m. and about the traffic this facility will generate. He argued that the current intersection cannot handle any additional traffic.

Mark Simnitt, 7775 SW 74th, said residents are worried because of this facility's proximity to the Garden Home Recreation Center and because the school bus stop is across the street. Access in and out of the parking lot is dangerous, the parking is truly inadequate and traffic congestion at this intersection is already severe. This facility is clearly not demanded by the public interest or convenience to community.

Gabe Schomus, 7555 SW 74th, said when the Elks Club held major events there was always a traffic problem but they did not happen that often. Residents believe the overflow from Sports Action Inn will affect residents on 74th since there is no parking on Garden Home and no choice but to go into the neighborhood.

Others testifying in opposition to the applicant included:

Dr. Susan Levitte, 8274 SW 67th Pl., 97223
Phyllis LaFont, 7881 SW Stephen, 97223
Phyllis Lindsley, 8535 SW 80th
Kay Durtschi, Southwest Neighborhood Information
Al Campbell, 76445 SW 83rd Ave., 97223
Joy Patterson, 7195 SW Lara St., 97223
Kathleen Jones, 6812 SW Mayo, 97223
Jan Zundel, 7795 SW 66th, 97223
Lisa Brandt, SW 69th, 97223
Sherry Shue, Garden Home resident

Opponents stressed their concern for the safety of school children waiting at the bus stop across the street, inadequate parking and traffic congestion.

Jody Lang, employee at Sports Action Inn and resident of Garden Home, said she does not believe the Inn will pose that much of a traffic problem and supported the favorable recommendation.

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Commissioner Blumenauer left the meeting at 3:30 p.m.

Mayor Katz asked if the OLCC could deny this based on its location near a school or the recreation center as well as its impact on the neighborhood.

Mr. Werneken said yes, possibly, but the State would first have to show that the impact existed and was adverse and significant. The applicant would then be given a chance to show what he would do to mitigate it. He said the most sensitive uses are on the other side of both Olson and Garden Home Road and he personally believes the extent of the existing traffic, which is a significant issue, tends to isolate those uses from the bar itself.

Mayor Katz asked if the facility could remain open after 2:30 a.m., which the application does permit if no liquor is served.

Mr. Werneken said yes.

Mayor Katz asked Mr. Mendelson what the applicant's plan was.

Mr. Mendelson said he is not going to operate as an after-hours club and it would be acceptable to add that as a condition of a favorable recommendation.

Commissioner Kafoury noted that Council simply makes a recommendation to the OLCC and does not actually grant licenses. She said this is not a zoning hearing that determines whether a business can be located here or whether alcohol is appropriate in neighborhoods. However, she believes there are serious traffic mitigation problems and moved to overturn the Bureau's favorable recommendation. In overturning the recommendation, she said the City needs to make clear that there is no evidence of any bad behavior on the part of the applicants. She said Council should also specify its reasons, including the particular geography of the neighborhood, the potential for traffic congestion and the impact on school children.

Commissioner Hales seconded, noting a similar situation in N. Portland where the applicant had a good reputation but the neighborhood environment would not support another license. He agreed that this was not a land use hearing but believes there are sufficient grounds for a negative recommendation even though the applicant could still prevail at the OLCC. He suggested that a favorable recommendation might be granted if an adequate traffic management plan was attached. That would require successful negotiation with the neighborhood.


FEBRUARY 9, 1994

Commissioner Kafoury underscored that Council encourages applicants to work with neighborhoods directly and leave government out of it.

Disposition: Unfavorably recommended. (Y-3)

At 4:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council